

LEGISLATIVE BILL 775

Approved by the Governor April 19, 1986

Introduced by Rogers, 41

AN ACT relating to pseudorabies; to adopt the Pseudorabies Control Act; to create a fund; to provide penalties; and to provide an operative date.

Be it enacted by the people of the State of Nebraska,

Section 1. This act shall be known and may be cited as the Pseudorabies Control Act.

Sec. 2. For purposes of the Pseudorabies Control Act, unless the context otherwise requires, the definitions found in sections 3 to 20 of this act shall be used.

Sec. 3. Pseudorabies shall mean the contagious, infectious, and communicable disease of livestock, variously known as Aujeszky's Disease, mad itch, or infectious bulbar paralysis.

Sec. 4. Animal shall mean swine.

Sec. 5. Livestock shall mean cattle, swine, sheep, goats, dogs, or cats.

Sec. 6. Department shall mean the Department of Agriculture.

Sec. 7. Eligible animals shall mean animals of an age, sex, and status subject to testing under the pseudorabies control program as provided in rules and regulations adopted and promulgated under the Pseudorabies Control Act.

Sec. 8. Official test shall mean any testing procedure recognized for use in the diagnosis of pseudorabies by (1) the United States Department of Agriculture and existing as of January 1, 1986, in Title 9, Part 85, of the Code of Federal Regulations or (2) the department in rules and regulations adopted and promulgated pursuant to the Pseudorabies Control Act.

Sec. 9. Concentration point shall mean any facility where livestock from two or more herds are assembled and subsequently dispersed to one or more locations.

Sec. 10. Private treaty shall mean a sale of livestock from one individual to another other than at a market.

Sec. 11. Market shall mean any place, establishment, or facility operated as a market for

livestock consisting of pens or other enclosures and their appurtenances where livestock are received, held, sold, or kept for resale or shipment in commerce.

Sec. 12. Sale shall mean a sale and shall include a lease, loan, trade, or gift.

Sec. 13. Negative shall mean that an animal has undergone an official test and has been determined not to have pseudorabies.

Sec. 14. Positive shall mean that an animal has undergone an official test and has been determined to be infected with pseudorabies.

Sec. 15. Suspect shall mean that an animal has been tested for pseudorabies and, based upon the official test results, cannot be clearly classified as either negative or positive without further testing or other epidemiological evaluation.

Sec. 16. Exposed shall mean that livestock (1) are part of a herd in which infected livestock have been present or (2) have had a reasonable opportunity to come in contact with infected livestock.

Sec. 17. Infected shall mean that livestock have been determined to be infected with pseudorabies by an official pseudorabies test or diagnosed by a veterinarian as having pseudorabies.

Sec. 18. Herd shall mean (1) any group of livestock maintained on common ground for any purpose or (2) two or more groups of livestock under common ownership or supervision geographically separated but which have an interchange of animals without regard to whether the animals are infected with or exposed to pseudorabies.

Sec. 19. Breeding swine shall mean boars, sows, and gilts used or intended for use for reproductive purposes.

Sec. 20. Feeder swine shall mean swine intended to be fed for weight gaining purposes and eventual slaughter.

Sec. 21. (1) The Pseudorabies Control Act shall be administered by the Department of Agriculture, Bureau of Animal Industry. In administering such act, the department shall cooperate and may contract with appropriate local, state, or national organizations, public or private, for the performance of activities required or authorized pursuant to such act.

(2) In administering the Pseudorabies Control Act and conducting the programs authorized under the act, the department may cooperate with the United States Department of Agriculture and insofar as reasonably practical, conform its activities to Title 9, Part 85,

of the Code of Federal Regulations existing as of January 1, 1986.

Sec. 22. The department shall continually conduct a feeder and breeding swine testing program. Under the program, the department may require the quarantine, testing, or both of feeder and breeding swine whenever such animals are moving in commerce through markets or concentration points or whenever feeder and breeding swine are sold at private treaty.

Sec. 23. The department shall continually conduct a pseudorabies control program. Under the program, the department shall quarantine and may require the pseudorabies testing of eligible animals that are exposed. Under the pseudorabies control program, the department shall also quarantine and require the pseudorabies testing of eligible animals imported into Nebraska in violation of pseudorabies-related importation requirements existing as of January 1, 1986, in Title 9, Part 85, of the Code of Federal Regulations or as recognized by the department in rules and regulations adopted and promulgated pursuant to the Pseudorabies Control Act. The department may prohibit the addition of animals into infected or exposed herds.

Sec. 24. For the protection of the livestock industry in Nebraska and to aid in achieving the purposes of the Pseudorabies Control Act, the department shall regulate the sale and use of pseudorabies vaccine. The department may restrict the sale and use of pseudorabies vaccine and shall require detailed recordkeeping and reporting by persons involved in the sale, use, or both of the vaccine.

Sec. 25. The department shall adopt and promulgate rules and regulations to aid in implementing the Pseudorabies Control Act. The rules and regulations may include, but shall not be limited to, provisions governing:

(1) The conduct of the feeder and breeding swine testing program, including provisions governing: (a) When, where, how, by whom, and how often testing is to be done; (b) what animals are to be tested; and (c) how test results are to be recorded and reported;

(2) The conduct of the pseudorabies control program, including provisions governing: (a) When, where, how, by whom, and how often testing is to be done; (b) what animals are to be tested; (c) how test results are to be recorded and reported; and (d) the classification of herds;

(3) The issuance and release of pseudorabies quarantines and the requirements regarding the handling,

movement, and disposition of animals under quarantine;

(4) The cleaning and disinfecting of infected premises, including provisions governing: (a) The materials to be used; (b) the procedures to be used; and (c) when such procedures are to be performed;

(5) The testing of animals or livestock to detect pseudorabies, including provisions governing: (a) Which tests are to be deemed official; (b) by whom the tests are to be administered; (c) how the tests are to be conducted; (d) the reaction tolerances to be recognized; and (e) the classification of results as to negative, suspect, or positive. These rules and regulations shall be consistent with the best available scientific information relative to the control of pseudorabies;

(6) The pseudorabies vaccination program, including provisions governing: (a) The vaccines to be used; (b) the age of the animals to be vaccinated; (c) the effect of vaccination on the interpretation of test results; and (d) the reported sale and use of vaccine;

(7) The identification of animals subject to the Pseudorabies Control Act, including provisions governing: (a) Exposed and infected animals; (b) vaccinated animals; and (c) animals to be tested;

(8) Compliance with Title 9, Part 85, of the Code of Federal Regulations existing on January 1, 1986, for pseudorabies control;

(9) The assessment and collection of fees for services provided and expenses, not to exceed actual costs, incurred under the Pseudorabies Control Act;

(10) The preparation, maintenance, handling, filing, and disposition of records and reports by persons subject to the act concerning the vaccination, testing, or movement of animals that may have been infected with or exposed to pseudorabies; and

(11) Any other areas deemed necessary by the department to effectively control pseudorabies.

Sec. 26. (1) In order to insure compliance with the Pseudorabies Control Act the department may apply for a restraining order, a temporary or permanent injunction, or a mandatory injunction against any person violating or threatening to violate the act or the rules and regulations adopted and promulgated under the act. The district court of the county where the violation is occurring or is about to occur shall have jurisdiction to grant such relief upon good cause shown. Relief may be granted notwithstanding the existence of any other remedy at law and shall be granted without bond.

(2) It shall be the duty of the county



attorney of the county in which violations of the Pseudorabies Control Act or the rules and regulations thereunder are occurring or about to occur, when notified of such violation or threatened violation, to cause appropriate proceedings under subsection (1) of this section to be instituted and pursued without delay.

Sec. 27. The department may assess and collect reasonable fees for services provided and expenses incurred pursuant to its responsibilities under the Pseudorabies Control Act. All fees assessed and collected pursuant to this section shall be deposited in the Pseudorabies Control Cash Fund which is hereby created.

Sec. 28. The Pseudorabies Control Cash Fund shall consist of money appropriated by the Legislature and gifts, grants, fees, or charges from any source including federal, state, public, and private. The fund shall be utilized for the purpose of carrying out the Pseudorabies Control Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to 72-1269.

Sec. 29. In administering the Pseudorabies Control Act, the agents and employees of the department shall have access to any premises where livestock may be, when such persons have probable cause to believe that such livestock may be infected with or may have been exposed to pseudorabies.

Sec. 30. Whenever pseudorabies testing is performed under the Pseudorabies Control Act with respect to private treaty, the owner of the animals shall be responsible for gathering, confining, and restraining the animals to be tested and shall provide the necessary facilities and assistance. With respect to pseudorabies tests conducted at markets or concentration points, the responsibility for gathering, confining, and restraining the animals to be tested shall be borne by the owner of the establishment.

Sec. 31. All testing expenses incurred in compliance with the Pseudorabies Control Act and the rules and regulations adopted and promulgated pursuant thereto shall be paid by the owner of the animal prior to the sale.

Sec. 32. It shall be unlawful for a buyer to knowingly purchase or import feeder swine, breeding swine, or both from a seller who has not complied with the Pseudorabies Control Act. It shall also be unlawful for a seller who has not complied with the Pseudorabies Control Act to sell feeder swine, breeding swine, or

both.

Sec. 33. Whenever animals are required or designated pursuant to the Pseudorabies Control Act to move to a particular destination, it shall be unlawful to divert the animals from such destination without having first obtained permission from the department.

Sec. 34. Any person who violates the Pseudorabies Control Act or any rules and regulations adopted and promulgated pursuant thereto shall be guilty of a Class IV misdemeanor for the first offense and shall be guilty of a Class II misdemeanor for each subsequent offense.

Sec. 35. This act shall become operative on October 1, 1987.